

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed ROSP SE-4467/02 requesting to expand the existing parking lot to add 18 additional parking spaces in accordance with Subtitle 27 of the Prince George’s County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on November 15, 2007, the Prince George’s County Planning Board finds:

A. **Location and Field Inspection:** The subject property is located on the northwest side of Palmer Road, about 3,600 feet east of its intersection with Indian Head Highway and about 2,700 feet west of Tucker Road. The 21-acre site contains two sections. The southern section (known as Parcel G) contains almost 10 acres and has approximately 950 feet of frontage on Palmer Road. This is the parcel that contains the recently constructed Chestnut Oaks senior housing development

The property is developed with a four-story brick and frame building. A large parking area separates the building from the street (Palmer Road). The property is characterized by moderate to severe topography. A tributary to Henson Creek bisects the property and runs along the northern border of the southern section. The site also contains wetlands and a 100-year floodplain associated with the Henson Creek watershed.

B. **Development Data Summary**

	EXISTING	PROPOSED
Zone(s)	R-E	R-E
Use(s)	senior housing	senior housing
Acreage	21.2	21.2
Lots	N/A	N/A
Parcels	G, 10, F, 288	G, 10, F, 288
Square Footage/GFA	182,000	182,000
Dwelling Units:		
Multifamily	157	157

C. **History:** The 1984 Subregion VII Sectional Map Amendment classified this property in the R-E Zone. Special Exception 4467 was approved by the District Council on February 1, 2005 to permit a planned retirement community. A Planning Director level revision to the special exception was approved on November 8, 2006 to permit the addition of a fire hydrant, the relocation of two transformer buildings and the addition of 25 parking spaces.

D. **Master Plan Recommendation:** The 2002 General Plan places the site in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable. The 1981 Master Plan for Subregion VII shows the subject site as a future elementary school.

- E. **Request:** The applicant seeks approval of a minor revision of the approved site plan to add additional parking spaces to serve the Chestnut Oaks planned retirement community. This revision would add eighteen additional parking spaces.
- F. **Neighborhood and Surrounding Uses:** The neighborhood includes a variety of residential living areas ranging from multifamily apartments and townhouse condominiums to single-family detached homes. The eastern end of the neighborhood is dominated by two Class III fill operations (Palmer Road and Panorama) and the Palmer Road rubble fill.

Immediately surrounding the subject site are the following uses:

North and east—large lot residences and undeveloped land in the R-E Zone.

South—(across Palmer Road) Single-family detached houses in the R-R Zone.

West—Pinewood Townhouse Condominiums (R-18 Zone) and the Devon Hills Apartments (R30-C Zone).

- G. **Minor Change Provisions:** Section 27-325(b), which governs minor revisions to special exception site plans, provides that:

- (1) **The Planning Board is authorized to approve the following minor changes:**
- (A) **An increase of no more than fifteen percent (15%) in the gross floor area of a building;**
 - (B) **An increase of no more than fifteen percent (15%) in the land area covered by a structure other than a building;**
 - (C) **The redesign of parking or loading areas; or**
 - (D) **The redesign of a landscape plan.**

The proposed revisions do not increase the gross floor area of the building. The revisions do increase the area of land covered by a structure other than a building due to the addition of paved area for the parking spaces. The increase in land covered by a structure other than a building in this revision is 13.3 greater than the original special exception approval (SE-4467/01 increased the land covered by a structure by 8.6 percent; this revision increases the percentage by an additional 4.7 percent). The change does constitute a redesign of the parking areas, and no redesign of the landscape plan is proposed.

H. **Specific Special Exception Requirements:** Pursuant to Section 27-395 of the Zoning Ordinance, the following specific requirements apply to a Planned Retirement Community in the R-E Zone:

(a) **A planned retirement community may be permitted, subject to the following criteria:**

(1) **Findings for approval.**

(A) **The District Council shall find that:**

- (i) **The proposed use will serve the needs of the retirement-aged community;**
- (ii) **The proposed use will not adversely affect the character of the surrounding residential community; and**
- (iii) **In the R-A Zone, there shall be a demonstrated need for the facility and an existing medical facility within the defined market area of the subject property.**

(2) **Site plan.**

(A) **In addition to the requirements of Section 27-296(c), the site plan shall set forth the proposed traffic circulation patterns.**

(3) **Regulations.**

(A) **Regulations restricting the height of structures, lot size and coverage, frontage, setbacks, density, dwelling unit types, and other requirements of the specific zone in which the use is proposed shall not apply to uses and structures provided for in this Section. The dimensions and percentages shown on the approved site plan shall constitute the regulations for a given Special Exception.**

(B) **The subject property shall contain at least twelve (12) contiguous acres.**

(C) **The average number of dwelling units per acre shall not exceed eight (8) for the gross tract area.**

(D) **In the R-A Zone, buildings shall not exceed three (3) stories.**

(E) **In the I-3 Zone, the following shall apply:**

- (i) **The gross tract area shall be a minimum of ninety (90) acres with at least twenty-five percent (25%) of its boundary adjoining residentially-zoned land or land used for residential purposes;**

- (ii) **The property shall have at least one hundred fifty (150) feet of frontage on, and direct vehicular access to, a public street;**
 - (iii) **All buildings shall be set back a minimum of seventy-five (75) feet from all nonresidentially-zoned boundary lines or satisfy the requirements of the Landscape Manual, whichever is greater; and**
 - (iv) **The property shall be located within two (2) miles of mass transit, regional shopping, and a hospital.**
- (F) **In the I-3 and C-O Zones, townhouses shall comply with the design guidelines set forth in Section 27-274(a)(11) and the regulations for development set forth in Section 27-433(d).**
- (4) **Uses.**
 - (A) **The planned retirement community shall include a community center or meeting area, and other recreational facilities which the District Council finds are appropriate. These recreational facilities shall only serve the retirement community. The scope of the facilities shall reflect this fact. The Council may only permit a larger facility which serves more than the retirement community if the facility is harmoniously integrated with the retirement community and the surrounding neighborhood. All recreational facilities shall be constructed prior to, or concurrent with, the construction of the residential units, or in accordance with a schedule approved by the District Council;**
 - (B) **Retail commercial uses, medical uses, health care facilities, and other uses which are related to the needs of the community may be permitted.**
- (5) **Residents' age.**
 - (A) **Age restrictions in conformance with the Federal Fair Housing Act shall be set forth in covenants submitted with the application and shall be approved by the District Council, and filed in the land records at the time the final subdivision plat is recorded.**
- (6) **Recreational facilities.**
 - (A) **Covenants guaranteeing the perpetual maintenance of recreational facilities, and the community's right to use the facilities, shall be submitted with the application. The covenants shall be approved by the District Council, and shall be filed in the land records at the time the subdivision plat is recorded. If the recreational facilities are to be**

part of a condominium development, a proposed condominium declaration showing the recreational facilities as general common elements shall be approved by the District Council, and shall be recorded (pursuant to Title II of the Real Property Article of the Annotated Code of Maryland) at the time the subdivision plat is recorded.

Each of the above criteria was addressed when the special exception was initially approved by District Council. The Council found that the use complied with each criteria. The project is currently under construction in accordance with the Council's decision. This application proposes no changes in the building which was approved, the number of dwelling units or the amenities. Staff has reviewed the proposed revision and has determined that the addition of eighteen parking spaces does not alter any of the findings as they relate to the specific criteria set forth in Section 27-395.

In addition, Section 27-325(a)(4) provides that:

The revised site plan shall comply with all applicable requirements of this Subtitle, and with any conditions, relating to the use, imposed in the approval of the Special Exception or of any applicable Zoning Map Amendment, subdivision plat, or variance.

District Council approved SE-4467 subject to the following conditions:

1. The installation of structures and roads and the removal of vegetation are prohibited within the expanded stream buffer without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed.
2. Architectural design elements shown on the elevations for the southern and western facades of the building shall be applied consistently on other building facades.
3. A Type II Tree Conservation Plan shall be approved prior to the issuance of any grading or building permit.
4. Covenants requiring that one (1) member of each residence be a minimum of 62 years of age shall be recorded in the Land Records prior to the issuance of any use and occupancy permits.
5. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and the applicant shall submit associated mitigation plans.

The Planning Board notes that only conditions 1 and 3 appear to have any relevance to this minor revision. The removal of sufficient vegetation to accommodate the new parking was approved pursuant to SE-4467 and did not occur within the expanded stream buffer (Condition 1). An amended TCP II is submitted concurrent with this minor revision for review and approval

(Condition 3).

- I. **Parking Regulations:** The applicant originally provided 110 parking spaces for the building, based on .66 spaces per dwelling unit. A limited minor revision of the site plan was approved (ROSP SE-4467/02) in November 2006 which, among other things, provided an additional 25 parking spaces. With the additional parking spaces proposed in this minor revision, 149 parking spaces will be provided on-site for 157 dwelling units, just less than one parking space per dwelling unit.
- J. **Landscape Manual Requirements:** Generally, compliance with the Landscape Manual is required when there is either a proposed increase in gross floor area of a building or a change of use. The proposed additional parking is not the result of a change of use or an increase in gross floor area. The proposed revision is therefore, exempt from the Landscape Manual.
- K. **Zone Standards:** No additional variances or waivers are required for this application. The height and setback requirements for the subject use were approved specifically by District Council as set forth in the recommendations of the Zoning Hearing Examiner's decision. The subject use continues to be in compliance with these requirements.
- L. **Sign Regulations:** No signs are proposed for this revision.
- M. **Required Findings:**

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

- (1) **The proposed use and site plan are in harmony with the purposes of this Subtitle.**
- (2) **The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**
- (3) **The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Map Plan, the General Plan.**
- (4) **The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**
- (5) **The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**
- (6) **The proposed site plan is in conformance with an approved Tree Conservation Plan.**

District Council, in approving the subject use, found that the proposed use will provide housing options which encourage senior citizens to remain in or move to Prince George's County and contribute to protecting the County's tax base. In addition, the site plan achieves a balance between the development on the site and substantial topographic features which will be preserved

and will retain significant open space. Staff believes the proposed revisions will not impair the findings made by Council.

The Environmental Planning Section, in a memo dated April 17, 2007, provide the following comments with respect to the Tree Conservation Plan:

The Environmental Planning Section has reviewed the revised Special Exception Site Plan for Chestnut Oaks Senior Housing, SE-4467, stamped as received by the Environmental Planning Section on March 28, 2007. The Environmental Planning Section has provided the conditions listed at the end of this memorandum for your consideration as part of any approval of SE-4467 and TCPII/008/053-02.

Background

A small area in the western portion of the site is part of a Type II Tree Conservation Plan, TCPII/111/94-02, that was approved by the Environmental Planning Section as part of a grading permit. Applications SE-4467, TCPI/14/03, TCPII/008/05, SE-4467/01 and TCPII/008/05-01 were previously reviewed by the Environmental Planning Section. The current application revises the planned retirement community in the R-E zone by including additional acreage that was obtained by the vacation of Mildred Lane.

Site Description

The 23.09-acre property in the R-E zone is on the north side of Palmer Road about 2700 feet west of its intersection with Tucker Road. There are streams, wetlands and 100-year floodplain on the property associated with Henson Creek in the Potomac River watershed. Current air photos indicate that most of the site is wooded. No historic or scenic roads are affected by this proposal.

There are no nearby sources of traffic-generated noise. The proposed use will not be a noise generator. According to information obtained from the Maryland Department of Natural Resources Natural Heritage Program publication titled "Ecologically Significant Areas in Anne Arundel and Prince George's Counties," December 1997, there are no rare, threatened, or endangered species found to occur on or adjacent to this property.

The "Prince George's County Soils Survey" indicates that the principal soils on the site are in the Aura, Bibb, Iuka and Sassafras soils series. Marlboro Clay does not occur in this area. The site is in the Developing Tier according to the adopted General Plan.

Environmental Issues Addressed in the Subregion V Master Plan

The Subregion VII Master Plan shows an area of Natural Reserve associated with the stream valley on the site. The "Natural Reserve" areas have been superseded by the designations in the Countywide Green Infrastructure Plan. Impacts to sensitive environmental features are discussed in the Environmental Review section below.

Countywide Green Infrastructure Plan

The property contains Regulated Areas and Evaluation Areas as identified in the approved Green Infrastructure Plan. Conformance with the Green Infrastructure Plan is discussed in the Environmental Review section below.

Review of Conformance with Required Findings

Section 27-317(a)(6) of the Zoning Ordinance requires that the proposed site plan be in conformance with an approved Tree Conservation Plan.

Comment: A Type II Tree Conservation Plan will be approved with this site plan. This issue is discussed in detail in the Environmental Review section below.

Environmental Review

1. This site contains natural features that are required to be protected under Section 24-130 of the Subdivision Regulations. There are streams, wetlands and 100-year floodplain on the property associated with Henson Creek in the Potomac River watershed. It should be noted that the proposed revisions do not significantly alter the previously approved plans. The most significant change is the incorporation of additional acreage that was obtained by the vacation of Mildred Lane.

The extent of streams shown on the revised plans is consistent with an approved Jurisdictional Determination from the US Army Corps of Engineers for the extent of waters of the United States. The 100-year floodplain elevation was established in the Henson Creek Floodplain Study prepared by staff of Prince George's County Department of Environmental Resources and M-NCPPC. The wetlands shown on the plan match information available to staff. Severe slopes and steep slopes with highly erodible soils are correctly shown. The expanded stream buffer is correctly shown.

In most circumstances, the expanded stream buffer is placed into a conservation easement on a final plat. Because this proposal will not require a final plat, the Special Exception Site Plan shall be the means for protection of this sensitive area. The plan proposes impacts to the expanded stream buffer in two primary locations: (1) near the proposed building and (2) on the western portion of the site for the construction of a sanitary sewer line connection with an existing line.

The impacts near the proposed building are necessary for the grading associated with the bioretention areas and the associated outfalls. The impacts for the construction of the sewer line are necessary for the connection of the site to public sewer service. The Zoning Ordinance text that applies to these impacts is in Section 27-102(a)(13): "The purposes of the Zoning Ordinance are . . .to protect against undue noise, and air and water pollution, and to encourage the preservation of stream valleys, steep slopes, lands of natural beauty, dense forests, scenic vistas, and other similar features. . ."

The following note is on the Special Exception Site Plan and the Type II Tree Conservation Plan:

"The installation of structures and roads and the removal of vegetation are prohibited within the expanded stream buffer without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed."

Staff recommends that the Planning Board find that the design as proposed meets this stated purpose because the streams and other sensitive environmental features have been preserved to the fullest extent possible. Impacts have been limited to those necessary for the proposed development.

Recommended Finding: Staff recommends that the Planning Board find that the environmental purposes of the Zoning Ordinance have been addressed.

Recommended Condition: Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.

2. This site is subject to the provisions of the Woodland Conservation Ordinance because the entire site is more than 40,000 square feet in area and contains more than 10,000 square feet of woodland. The Forest Stand Delineation (FSD) has been reviewed. The plan includes a table listing the species, size and condition of each specimen tree. The soils boundaries and information on the table conform to the Prince George's County Soil Survey.

Comment: No further action regarding the Forest Stand Delineation is required with regard to this Special Exception review.

3. The revised Type I Tree Conservation Plan, TCPII/008/05-02, has been reviewed. The plan proposes clearing 6.94 acres of the existing 22.14 acres of upland woodland and clearing 0.09 acres of the existing 0.89 acres of floodplain woodland. The woodland conservation requirement has been correctly calculated as 7.38 acres. The plan proposes to meet the requirement by providing 6.87 acres of on-site preservation and 0.51 acres of on-site planting for a total of 7.38 acres. An additional 7.18 acres is preserved on-site as part of TCPII/111/94-02.

The revised woodland conservation areas are not significantly different from the previously approved layout. The design meets the goals of the Countywide Green Infrastructure Plan by protecting the adjacent stream valley, creating a large contiguous woodland and providing screening and buffering from Palmer Road and adjacent properties.

There are some technical errors that need to be corrected. Because of the outbreak of emerald ash borer in Prince George's County, no species of ash (*Fraxinus*) may be planted.

Recommended Condition: Prior to signature, the Type II Tree Conservation Plan, TCPII/008/05-02, shall be revised to:

- a. replace white ash in the planting schedule
 - b. have the revised plan signed and dated by the qualified professional who prepared the plan
4. The "Prince George's County Soils Survey" indicates that the principal soils on the site are in the Aura, Bibb, Iuka and Sassafras soils series. Aura soils are highly erodible and require special attention to erosion/sediment control when grading on slopes exceeding fifteen percent. Iuka soils are subject to a high water table, impeded drainage, and flood hazard. Bibb soils are associated with floodplains. Sassafras soils pose no special problems for development. The proposed development is sited to avoid the areas with the most problematic soils.

Discussion: This information is provided for the applicant's benefit. No further action is needed as it relates to this Special Exception review. A soils report may be required by the Prince George's County Department of Environmental Resources during the permit process review.

5. A Stormwater Management Concept Approval Letter, CSD #33959-2002-00, requires bioretention for water quality control and fee-in-lieu for water quantity control. The Type II TCP shows the required on-site facilities.

Discussion: No further action regarding stormwater management is required with regard to this Special Exception Site Plan.

Summary of Recommended Conditions

The Environmental Planning the following condition as part of any approval of SE-4467:

1. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
2. Prior to signature, the Type II Tree Conservation Plan, TCPII/008/05-02, shall be revised to:
 - a. replace white ash in the planting schedule

- b. have the revised plan signed and dated by the qualified professional who prepared the plan

At the public hearing, an adjacent property owner advised the Board that Mildred Lane is a dedicated public right-of-way. The applicant agreed and noted that the right-of way impacts the Tree Conservation Plan. The right-of-way should be reflected on the Tree Conservation Plan.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVES the above-noted application, subject to the following conditions:

1. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation plans.
2. Prior to Zoning Hearing Examiner approval of the site plan, the Type II Tree Conservation Plan, TCPII/008/05-02, shall be revised to:
 - a. Replace white ash in the planting schedule.
 - b. Have the revised plan signed and dated by the qualified professional who prepared the plan.
 - c. Show that Mildred Lane is a dedicated public right-of-way.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the Circuit Court for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Cavitt, seconded by Commissioner Clark, with Commissioners Cavitt, Clark, Vaughns and Parker voting in favor of the motion, and with Commissioner Squire temporarily absent at its regular meeting held on Thursday, November 15, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 13th day of December 2007.

Oscar S. Rodriguez

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Executive Director

By Frances J. Guertin
Planning Board Administrator

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